रजिस्ट्री सं. डी-(डी)-72 REGISTERED No. D-(D)-72

भारत का राजपत्र
The Gazette of India

असाधारण
EXTRAORDINARY

भाग II—खण्ड 2
PART II—Section 2

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY

सं० 55] नई दिल्ली, सोमवार, नवम्बर 18, 1985/कार्तिक 27, 1907
No. 55] NEW DELHI, MONDAY, NOVEMBER 18, 1985/KARTIKA 27, 1907

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके ।
Separate paging is given to this Part in order that it may be filed as a separate compilation

LOK SABHA

The following Bill was introduced in Lok Sabha on the 18th November, 1985:—

BILL No. 183 OF 1985

A Bill further to amend the Citizenship Act, 1955.

WHEREAS for the purpose of giving effect to certain provisions of the Memorandum of Settlement relating to the foreigners' issue in Assam (Assam Accord) which was laid before the Houses of Parliament on the 16th day of August, 1985 it is necessary to amend the Citizenship Act, 1955;

BE it enacted by Parliament in the Thirty-sixth Year of the Republic of India as follows:—

1. (1) This Act may be called the Citizenship (Amendment) Act, 1985. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Insertion of new section 6A.

2. In the Citizenship Act, 1955 (hereinafter referred to as the principal Act), after section 6, the following section shall be inserted, namely:— 57 of 1955.

Special provisions as to citizenship of persons covered by the Assam Accord.

"6A. (1) For the purposes of this section—

(a) "Assam" means the territories included in the State of Assam immediately before the commencement of the Citizenship (Amendment) Act, 1985;

(b) "detected to be a foreigner" means detected to be a foreigner in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964 by a Tribunal constituted under the said Order; 31 of 1946.

(c) "specified territory" means the territories included in Bangladesh immediately before the commencement of the Citizenship (Amendment) Act, 1985;

(d) a person shall be deemed to be of Indian origin, if he, or either of his parents or any of his grandparents was born in undivided India;

(e) a person shall be deemed to have been detected to be a foreigner on the date on which a Tribunal constituted under the Foreigners (Tribunals) Order, 1964 submits its opinion to the effect that he is a foreigner to the officer or authority concerned.

(2) Subject to the provisions of sub-sections (6) and (7), all persons of Indian origin who came before the 1st day of January, 1966 to Assam from the specified territory (including such of those whose names were included in the electoral rolls used for the purposes of the General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam since the dates of their entry into Assam shall be deemed to be citizens of India as from the 1st day of January, 1966.

(3) Subject to the provisions of sub-sections (6) and (7), every person of Indian origin who—

(a) came to Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the specified territory; and

(b) has, since the date of his entry into Assam, been ordinarily resident in Assam; and

(c) has been detected to be a foreigner;

shall register himself in accordance with the rules made by the Central Government in this behalf under section 18 with such authority (hereafter in this sub-section referred to as the registering authority) as may be specified in such rules and if his name is included in any electoral roll for any Assembly or Parliamentary constituency in force on the date of such detection, his name shall be deleted therefrom.

Explanation.—In the case of every person seeking registration under this sub-section, the opinion of the Tribunal constituted under the Foreigners (Tribunals) Order, 1964 holding such person to be a foreigner, shall be deemed to be sufficient proof of the requirement under clause (c) of this sub-section and if any question arises as to whether such person complies with any other requirement under this sub-section, the registering authority shall,—

(*i*) if such opinion contains a finding with respect to such other requirement, decide the question in conformity with such finding;

(*ii*) if such opinion does not contain a finding with respect to such other requirement, refer the question to a Tribunal constituted under the said Order having jurisdiction in accordance with such rules as the Central Government may make in this behalf under section 18 and decide the question in conformity with the opinion received on such reference.

(*4*) A person registered under sub-section (*3*) shall have, as from the date on which he has been detected to be a foreigner and till the expiry of a period of ten years from that date, the same rights and obligations as a citizen of India (including the right to obtain a passport under the Passports Act, 1967 and the obligations connected therewith), but shall not be entitled to have his name included in any electoral roll for any Assembly or Parliamentary constituency at any time before the expiry of the said period of ten years.

15 of 1967.

(*5*) A person registered under sub-section (*3*) shall be deemed to be a citizen of India for all purposes as from the date of expiry of a period of ten years from the date on which he has been detected to be a foreigner.

(*6*) Without prejudice to the provisions of section 8,—

(*a*) if any person referred to in sub-section (*2*) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985, a declaration that he does not wish to be a citizen of India, such person shall not be deemed to have become a citizen of India under that sub-section;

(*b*) if any person referred to in sub-section (*3*) submits in the prescribed manner and form and to the prescribed authority within sixty days from the date of commencement of the Citizenship (Amendment) Act, 1985 or from the date on which he has been detected to be a foreigner, whichever is later, a declaration that he does not wish to be governed by the provisions of that sub-section and sub-sections (*4*) and (*5*), it shall not be necessary for such person to register himself under sub-section (*3*).

Explanation.—Where a person required to file a declaration under this sub-section does not have the capacity to enter into a contract, such declaration may be filed on his behalf by any person

competent under the law for the time being in force to act on his behalf.

(7) Nothing in sub-sections (2) to (6) shall apply in relation to any person—

(*a*) who, immediately before the commencement of the Citizenship (Amendment) Act, 1985, is a citizen of India;

(*b*) who was expelled from India before the commencement of the Citizenship (Amendment) Act, 1985, under the Foreigners Act, 1946. 31 of 1946.

(8) Save as otherwise expressly provided in this section, the provisions of this section shall have effect notwithstanding anything contained in any other law for the time being in force.".

Amendment of section 18.

3. In section 18 of the principal Act, in sub-section (2), after clause (*e*), the following clause shall be inserted, namely:—

"(*ee*) the manner and form in which and the authority to whom declarations referred to in clauses (*a*) and (*b*) of sub-section (6) of section 6A shall be submitted and other matters connected with such declarations;".

STATEMENT OF OBJECTS AND REASONS

The core of the Memorandum of Settlement (Assam Accord) relates to the foreigners' issue, since the agitation launched by the A.A.S.U. arose out of their apprehensions regarding the continuing influx of foreign nationals into Assam and the fear about adverse effects upon the political, social, cultural and economic life of the State.

2. Assam Accord being a political settlement, legislation is required to give effect to the relevant clauses of the Assam Accord relating to the foreigners' issue.

3. It is intended that all persons of Indian origin who came to Assam before the 1st January, 1966 (including such of those whose names were included in the electoral rolls used for the purpose of General Election to the House of the People held in 1967) and who have been ordinarily resident in Assam ever since shall be deemed to be citizens of India as from the 1st day of January, 1966. Further, every person of Indian origin who came on or after the 1st January, 1966 but before the 25th March, 1971 from territories presently included in Bangladesh and who has been ordinarily resident in Assam ever since and who has been detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964 shall, upon registration, be deemed to be a citizen for all purposes as from the date of expiry of a period of ten years from the date of detection as a foreigner. It is also intended that in the intervening period of 10 years, these persons should not suffer from any other disability vis-a-vis citizens, excepting the right to vote and that proper record should be maintained of such persons. To inspire confidence, judicial element should be associated to determine eligibility in each and every case under this category.

4. The Bill seeks to amend the Citizenship Act, 1955 to achieve the above objectives

NEW DELHI;
The 15th November, 1985.

ARUN NEHRU.

FINANCIAL MEMORANDUM

Clause 2 of the Bill seeks to insert a new section 6A in the Citizenship Act, 1955. Under sub-section (3) of the new section foreigners who came to Assam from erstwhile East Pakistan, now Bangladesh on or after the 1st January, 1966 but before the 25th March, 1971 who are detected in accordance with the provisions of the Foreigners Act, 1946 and the Foreigners (Tribunals) Order, 1964 have to be registered in accordance with the rules made by the Central Government in this behalf. As envisaged in the Assam Accord, this will require strengthening of the machinery established for the purpose. This will involve some expenditure from the Consolidated Fund of India. However, it is not possible at this stage to precisely quantify the expenditure that is likely to be incurred on this account as this would depend upon the volume of the work which will be involved. As no precise information as to the number of people who came in during this period is available, it is not possible to estimate the volume of work of detection and registration.

2. The Bill does not involve any other expenditure of a recurring or non-recurring nature.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Sub-section (3) of new section 6A as directed to be inserted by clause 2 of the Bill in the Citizenship Act, 1955 requires that every person of Indian origin who has entered Assam on or after the 1st day of January, 1966 but before the 25th day of March, 1971 from the territory now comprised in Bangladesh and who has since the date of entry into Assam been ordinarily resident in Assam and who has been detected to be a foreigner, should register himself, in accordance with such rules as the Central Government may make with such authority as may be specified in those rules.

2. Sub-section (6) of the new section 6A seeks to enable a person who does not wish to be a citizen of India under the provisions of sub-section (1) of that section or, as the case may be, to be governed by the provisions of sub-sections (3), (4) and (5) of that section to submit a declaration to that effect in the prescribed manner and form and to the prescribed authority.

3. Clause 3 of the Bill seeks to make necessary consequential amendment in section 18 of the Citizenship Act, 1955 relating to the power to make rules.

4. The matters in respect of which rules may be made under the aforementioned provisions pertain to matters of procedure and detail. The delegation of legislative power is, therefore, of a normal character.

SUBHASH C. KASHYAP,
Secretary-General.

PRINTED BY THE GENERAL MANAGER, GOVERNMENT OF INDIA PRESS, MINTO ROAD, NEW DELHI AND PUBLISHED BY THE CONTROLLER OF PUBLICATIONS, DELHI, 1985